

# SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Kelley Analyst: Marion Mann DeJong Bill Number: AB 45X

Related Bills: See Legislative History Telephone: 845-6979 Amended Date: 03/06/2001

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Manufacturers' Investment Credit/Extends to Major Group of Other Electric Power Generation

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_.

☒ FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 9, 2001, STILL APPLIES.

OTHER - See comments below.

## SUMMARY

This bill would extend the Manufacturers' Investment Credit (MIC) to certain electric power generation businesses.

## SUMMARY OF AMENDMENT

The March 6, 2001, amendments made the following changes:

- Amended the Personal Income Tax (PIT) Law to provide the changes to the MIC proposed by this bill to PIT taxpayers as well as corporate taxpayers.
- Deleted the provisions relating to employee wage and health insurance, including the related recapture.
- Revised the binding contract date and the operative date so both apply for taxable years beginning on or after January 1, 2001.
- Restructured how the electric power generation activities were added to the MIC.
- Defined the production of electricity process.

The March 6, 2001, amendments resolved the implementation, technical, and policy considerations raised in the department's analysis of AB 45X as introduced February 9, 2001. Except for "This Bill," "Implementation Considerations," "Technical Considerations," and "Arguments/Policy Concerns" the department's prior analysis still applies. The discussion of "This Bill" in the department's prior analysis is replaced with the following. In addition, the department has new technical considerations.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Legislative Director

Date

Brian Putler

03/13/2001

## **POSITION**

Pending.

### **Summary of Suggested Amendments**

Technical amendments are provided. See "Technical Considerations" below.

## **ANALYSIS**

### **THIS BILL**

This bill would add taxpayers engaged in "other" electric power generation activities to the definition of "qualified taxpayer" for purposes of the MIC. These activities are described in Code 221119 of the North American Industry Classification System (NAICS) Manual, 1997 edition, as follows:

"Establishments primarily engaged in operating electric power generation facilities (except hydroelectric, fossil fuel, and nuclear). These facilities convert other forms of energy, such as solar, wind, or tidal power, into electrical energy. The electric energy produced in these establishments is provided to electric power transmission systems or to electric power distribution systems."

This bill would modify the definition of "qualified property" to include tangible personal property used by a qualified taxpayer engaged in activities described in NAICS Code 221119. The property must be used primarily for production of electricity from one or more of the following sources: solar, wind, geothermal, solid-fuel biomass, tire waste, municipal solid waste, or digester gas. Costs would include capitalized direct labor costs for the construction or modification of this property. Property used to distribute the electricity produced would not qualify.

"Production of electricity" would be defined as the process of converting any acceptable energy source into electricity for distribution to either an electric power transmission system or an electrical distribution system. This process would begin at the point the acceptable energy source is received by the qualified taxpayer and introduced into the electricity production process. The process would end at the point that the electricity produced is in a form capable of distribution to either an electric power transmission system or an electrical distribution system. "Acceptable energy source" would mean solar, wind, geothermal, solid-fuel biomass, waste tire, municipal solid waste, or digester gas.

The binding contract rules in the MIC would be modified so that purchases of tangible personal property pursuant to a binding contract entered into before January 1, 2001, by taxpayers engaged in "other" electric power generation activities would not qualify for the credit. The bill would also change the corresponding dates in the binding contract rules for certain leases of qualified property.

This bill also would make minor technical changes to delete obsolete language referencing the low-emission vehicle credit, reference specific laws that amended the MIC, and change "which" to "that" in various places.

TECHNICAL CONSIDERATIONS

Amendments 1 and 4 would apply the term “acceptable energy source” consistently.

Amendments 2 and 5 would add a word inadvertently omitted.

Amendment 3 would correct a date in a reference to an act that amended the MIC.

**LEGISLATIVE STAFF CONTACT**

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FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO AB 45X  
As Amended March 6, 2001

AMENDMENT 1

On page 9, modify lines 29 and 30 as follows:

distribution system, beginning at the point the acceptable ~~form of~~ energy source  
is received by a qualified taxpayer and introduced into the

AMENDMENT 2

On page 13, modify line 30 as follows:

effective date of the act adding this paragraph or the fourth calendar quarter

AMENDMENT 3

On page 14, line 29, strikeout "1994" and insert:

1996

AMENDMENT 4

On page 22, modify lines 24 and 25 as follows:

distribution system, beginning at the point the acceptable ~~form of~~ energy source  
is received by a qualified taxpayer and introduced into the

AMENDMENT 5

On page 26, modify line 24 as follows:

effective date of the act adding this paragraph or the fourth calendar quarter